HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.NO. 22846 OF 2007

DATED: 30.10.2007

Between:

Gokada Veera Venkata Rao

… Petitioner

and

The Kakinada Municipality, represented
By its Commissioner, Kakinada

… Respondent

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.NO. 22846 OF 2007

ORAL ORDER:

This writ petition is filed for a writ of Mandamus to declare the urgent notice dated 9.10.2007 vide Roc.No.11161/2006-A1, of the Commissioner, Kakinada Municipal Corporation, as illegal and arbitrary.

The petitioner's bid for collection of fees in five markets and road margins was accepted for a period of one year vide the respondent's proceedings dated 22.3.2007. The total bid amount was Rs.72,27,765/- and a resolution to that effect was passed on 28.3.2007 by the Standing Council of the respondent-Corporation. The petitioner paid substantial amount from out of the total bid amount and left a balance of Rs.21,89,149/- to be paid and has become overdue by the end of October 2007.

On 27.8.2007, the Commissioner of the respondent-Municipal Corporation issued a notice calling upon the petitioner to make payment of the outstanding amount. However, the petitioner made representations dated 3.9.2007, 3.10.2007 and 18.10.2007, wherein he brought to the notice of the Corporation that mainly because of two

supervening circumstances namely; construction of Kakinada-Kothapet flyover and conversion of Gandhi Nagar market into Rytu Bazar, affected his business and thereby disabling the petitioner from paying the balance amount. The petitioner, therefore, sought for reduction of the lease amount. However, without disposing of the said representations, the impugned notice is issued, whereunder the petitioner is called upon to pay the outstanding amount of Rs.21,89,149/-, within three days from the date of receipt of the notice.

Heard Smt. Bobba Vijayalakshmi, learned counsel for the petitioner and Sri S. Nageswara Reddy, learned Standing Counsel for the respondent-Corporation.

The dispute raised by the petitioner arises under a commercial contract, which this court ordinarily would not entertain and resolve. However, when the petitioner made repeated representations bringing to the notice of the respondent the difficulties in making the payment as per the contract, the respondent exercising the Sovereign functions of the State is duty bound in law to consider and dispose of those representations. As the respondent did not appear to have responded to the representations of the petitioner, I deem it appropriate to dispose of the writ petition with the following directions:

1). The Commissioner, Kakinada Municipal Corporation, shall consider and dispose of the representations dated 3.9.2007, 3.10.2007 and 18.10.2007 said to have been made by the petitioner, within a period of two weeks.

2). The Commissioner shall give an opportunity of personal hearing to the petitioner before disposing of the petitioner's

representations.

3). Till the disposal of the representations, the respondent shall not take coercive steps to recover the balance outstanding amounts.

The writ petition is disposed of. No costs.

C.V. NAGARJUNA REDDY, J

Date: 30.10.2007

cvm